



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

BARBARA D. UNDERWOOD  
SOLICITOR GENERAL  
DIVISION OF APPEALS & OPINIONS

November 12, 2019

**VIA ECF**

Honorable Gary L. Sharpe  
United States District Judge  
James T. Foley U.S. Courthouse  
445 Broadway, Room 112  
Albany, New York 12207

**Re: *Merola v. Cuomo et al.*, No. 19-cv-00899 (GLS) (TWD)**

Your Honor,

As the Court is aware, defendants advised the Court in September of their intent to file a Rule 12(c) dismissal motion, and sought leave to exceed the twenty-five (25) page limit for their supporting memorandum of law. By order dated November 1, the Court denied defendants' request for excess pages and directed: plaintiff to file a preliminary injunction motion by November 11; defendants to file their opposition and cross-motion to dismiss by November 25; and plaintiff to file his response and reply by December 2. (ECF No. 25.) Under the current briefing order and Local Rule 7.1(a) and (c), plaintiff will have a total of fifty (50) pages for his two memoranda of law, and defendants will have a total of twenty-five (25) pages for a single memorandum of law in support of their Rule 12(c) motion and in opposition to plaintiff's preliminary injunction motion.

Yesterday, plaintiff filed his motion for a preliminary injunction and supporting papers (ECF No. 27), which contain numerous allegations—pertaining to new claims of injury and bases for preemption—not included in his complaint. For example, plaintiff now asserts that he faces injury through the threatened prosecutions for a litany of federal and state voter registration and voting laws (*see* ECF No. 27-1 at 13-14, 19-20), and for allegedly encouraging and inducing undocumented persons to enter or reside in the U.S. in violation of § 1324(a)(1)(A)(iv) (in addition to harboring) (*see id.* at 9-11), and alleges additional harms to the county clerk's office (*see* ECF No. 27-2 at 8-11). *Cf.* Compl. at ¶¶ 41-43, 66.

Hon. Gary L. Sharpe  
November 12, 2019  
Page 2 of 2

In order to address these new allegations and arguments, defendants respectfully renew their request for leave to file excess pages, and seek leave to file a combined memorandum of law in opposition to plaintiff's preliminary injunction motion and in support of defendants' cross-motion to dismiss of no more than forty (40) pages. In the alternative, defendants respectfully request leave to file a reply memorandum of law in further support of their long-intended Rule 12(c) motion following the filing of plaintiff's response.

Thank you for your consideration in this matter.

Respectfully submitted,  
/s/  
Linda Fang  
Assistant Solicitor General  
(212) 416-8656

cc: Counsel for plaintiff (via ECF)